

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WISCONSIN**

MARK MLSNA,

Plaintiff,

CASE NO. 3:18-cv-00037

v.

PLAINTIFF'S MOTIONS IN LIMINE

UNION PACIFIC RAILROAD COMPANY,

Defendant.

Plaintiff Mark Mlsna moves this Court through these motions in limine to limit the evidence and argument presented by Defendant Union Pacific Railroad Company. As set forth in greater detail in Mlsna's memorandum in support of this motion, Mlsna asks this Court to limit the presentation of evidence and argument in four areas:

1. First, this Court should preclude Union Pacific from introducing dosimetry data that was produced on May 12, 2021. This evidence was produced far too late, and its introduction now would be prejudicial to Mlsna.

2. Second, this Court should preclude Union Pacific from presenting evidence or argument regarding Mlsna's receipt of retirement benefits. These benefits are a collateral source that should not be before the jury.

3. Third, this Court should preclude Union Pacific from presenting evidence or argument regarding Union Pacific's vocational-rehabilitation department and any claimed efforts it made to find Mlsna a new job at Union Pacific.

4. Fourth, this Court should preclude Union Pacific from presenting evidence or argument regarding the Federal Employers' Liability Act ("FELA"). The FELA is not relevant to this discrimination case and discussion of the FELA risks confusing the jury.

Dated: May 18, 2021

Respectfully submitted:

s/ Nicholas D. Thompson
Nicholas D. Thompson, Esq.
(MN #1078903)
THE MOODY LAW FIRM, INC.
500 Crawford Street, Suite 200
Portsmouth, VA 23704
Telephone: (757) 393-4093
Fax: (757) 397-7257
nthompson@moodyrllaw.com

Thomas W. Fuller (MN #0394778)
Hunegs, LeNeave & Kvas, P.A.
1000 Twelves Oaks Center Drive
Suite 101
Wayzata, MN 55391
tfuller@hlklaw.com

Adam W. Hansen
Colin R. Reeves
APOLLO LAW LLC
333 Washington Avenue North
Suite 300
Minneapolis, MN 55401
(612) 927-2969
adam@apollo-law.com
colin@apollo-law.com

Attorneys for Mark Mlsna

CERTIFICATE OF SERVICE

I hereby certify that on May 18, 2021, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic filing:

Scott P. Moore (NE# 20752)
David P. Kennison (NE# 25510)
Baird Holm LLP
1700 Farnam St. Ste. 1500
Omaha, NE 68102
402-636-8311
402-344-0588 (facsimile)
spmoore@bairdholm.com
dkennison@bairholm.com

Attorneys for Defendants

s/ Nicholas D. Thompson